

NOT FOR PUBLICATION

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

KEVIN TONERO and BIG BLACK	:	
DOG, INC. d/b/a THE AUTOBERN	:	Hon. Dennis M. Cavanaugh
COMPANY,	:	
	:	ORDER
Plaintiff	:	
	:	Civil Action No. 10-cv-05499(DMC)(MF)
V.	:	
	:	
BRENT CLEMENS, LANDMARK	:	
SALES AND LEASING and JAMIE	:	
MCDANIEL WHITE (aka JAMIE	:	
CLEMENS),	:	
	:	
Defendants	:	

DENNIS M. CAVANAUGH, U.S.D.J.:

This matter comes before the Court upon motion by Kevin Tonerio *et al* ("Plaintiff") for default judgment against Brent Clemens *et al* ("Defendants")

WHEREAS Defendants are *pro se* litigants, and therefore the Court construes their pleadings under a "less stringent standard" than formal pleadings prepared by a lawyer." *U.S. v. Albinson* 356 F.3d 278, 284 (C.A.3 (Pa.),2004) *Mitchell v. Horn*, 318 F.3d 523, 529 (3d Cir.2003) (citing *Haines v. Kerner*, 404 U.S. 519, 520, 92 S.Ct. 594, 30 L.Ed.2d 652 (1972));

WHEREAS it appears that Defendant answered and raised affirmative defenses to Plaintiff's Complaint by letter dated December 3, 2011 (see Dock. 7);

WHEREAS it appears that the same answers and defenses remain applicable to the Amended Complaint filed on December 8, 2010 (see Dock. 8), and are reiterated in Defendant's letter subsequent to the Clerk's Entry of Default (see Dock. 10 & 11);

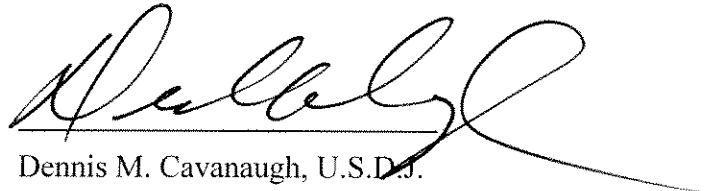
WHEREAS the Court finds that in light of Defendant's attempts to answer and defend Default Judgment is not warranted at this time:

WHEREAS the Court orders that the Clerk's Entry of Default be vacated;

WHEREAS the Court orders that the parties contact the Honorable Mark Falk, U.S.M.J., to arrange an initial scheduling conference pursuant to Fed. R. Civ. P. 16 as soon as possible;

IT IS on this 8 day of August, 2011;

ORDERED that the Entry of Default is **vacated** and the parties are instructed to contact Judge Falk for further proceedings.



Dennis M. Cavanaugh, U.S.D.J.

Orig.: Clerk
cc: All Counsel of Record
Hon. Mark Falk, U.S.M.J.
File